REMARKS

This Application has been carefully reviewed in light of the Official Action dated December 19, 2005. In order to advance prosecution of this Application, Claims 1, 22, and 26 have been amended. Applicant respectfully requests reconsideration and favorable action for this Application.

Claims 1-3, 5, and 22-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Brendel, et al. in view of Caccavale, et al. Independent Claims 1 and 22 recite in general predicted responsiveness indicators being operative to predict a response time of each of the plurality of servers based at least in part on a previous time stamp of a response time measurement, a current time stamp, and an aging factor applied to a difference between the previous time stamp and the current time stamp gathered at the system in the course of monitoring connections established between the plurality of servers and clients on the external network. By contrast, the Examiner readily admits that the Brendel, et al. patent fails to disclose the use of predicted responsiveness indicators to predict server response time. To support the claimed predicted responsiveness indicators and prediction of server response time, the Examiner cites the Caccavale, et al. patent in combination with the Brendel, et al. patent. However, the Caccavale, et al. patent merely discloses sending out probes and identifying the length of time it takes a server to respond to the probe. The measured response time information is merely compared to baseline response time information and previous response time information to determine how much, if any, the server's response time has degraded. The Caccavale, et al. patent does not disclose the use of an additional aging factor applied to certain time stamps associated with its measured server length of response time. Thus, the Caccavale,

et al. patent does not take into account an aging factor as provided by the claimed invention. The portion of the Caccavale, et al. patent cited by the Examiner merely discloses comparing the current response time information for a probe to baseline response time information and previous response time information for that probe. The degradation values obtained from these comparisons merely identify whether a server is overloaded. However, there is no aging applied to any response time information in the Caccavale patent. Thus, the Caccavale patent does not predict a response time of each of the plurality of servers based at least in part on an aging factor applied to a time stamp difference as required by the claimed invention. Support for the above recitation can be found at page 28, lines 2-8, of Applicant's specification. Therefore, Applicant respectfully submits that Claims 1-3, 5, and 22-25 are patentably distinct from the proposed Brendel, et al. - Caccavale, et al. combination.
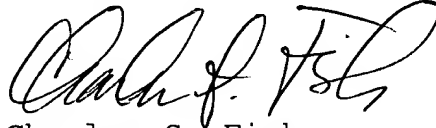
CONCLUSION

Applicant has now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

The Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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